UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/774,330	01/31/2001	Kevin T. Jones	M-9899 US	3634

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EXAMINER
MEINECKE DIAZ, SUSANNA M

ART UNIT	PAPER NUMBER
3623	

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/774,330	JONES ET AL.
	Examiner	Art Unit
	Susanna M. Diaz	3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _07 February 2005_.

2a) ☒ This action is **FINAL.**   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _1-31_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) _1-31_ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

S-0-2

DETAILED ACTION

1.   This final Office action is responsive to Applicant's amendment filed February 7.

2005.

Claims 1, 12, 13, 16, 17, 22, 25-27, and 31 have been amended.

Claims 1-31 are presented for examination.

2.   The previously pending objection to the declaration is withdrawn in light of

Applicant's submission of a corrected declaration.

The previously pending rejection under 35 U.S.C. § 101 is withdrawn in response

to Applicant's claim amendments. *It should be noted that the computer program*

product recited in claims 22-26 is interpreted as a computer program statically

embodied on a computer readable medium.

The previously pending rejection under 35 U.S.C. § 112, 2nd paragraph is

withdrawn in response to Applicant's amendment of claim 25.

Response to Arguments

3.   Applicant's arguments filed February 7, 2005 have been fully considered but they

are not persuasive.

Applicant argues that Mukhopadhyay and Jenkins do not teach or suggest *"the*

material requirement being based upon customer orders, and scheduling delivery of

material *to meet the material requirement from an available inventory of material to the*

operation on the manufacturing line" (page 18 of Applicant's response) The Examiner

respectfully disagrees. In ¶ 7, Mukhopadhyay discloses, "The plant manufactures

power transformers for industries and utility companies"; therefore, all manufacturing is

performed in response to customers orders. In other words, the nature of the customer

orders establishes the material requirement, especially in a just-in-time, or "pull",

environment. Any material delivered to the manufacturing line must be "available" in

order for the manufacturing to begin.

On pages 19-20 of Applicant's response, Applicant broadly asserts that various

features are not addressed by the prior art, yet Applicant provides no support for such

assertions. The Examiner has set forth her position in the art rejection, thereby

addressing these features in question.

In conclusion, Applicant's arguments are not persuasive and the art rejection is

maintained (with slight modification to address Applicant's claim amendments).

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

5.   Claims 1-6 and 8-31 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Mukhopadhyay ("Optimal Scheduling of Just-in-Time Purchase Deliveries").

Mukhopadhyay discloses a method for scheduling delivery of material to a

manufacturer comprising:

[Claim 1]   determining a material requirement for an operation of at least one

operation on a manufacturing line, the material requirement being based upon customer

orders, the determining being performed by a module executing on a computer system

(¶ 7 -- "The plant manufactures power transformers for industries and utility companies";

therefore, all manufacturing is performed in response to customers orders. In other

words, the nature of the customer orders establishes the material requirement,

especially in a just-in-time, or "pull", environment; Mukhopadhyay discloses that the

breakdown of parts required and delivery schedules are sent to the suppliers daily (¶¶ 7,

48) and the scheduling is optimized using a PC (¶¶ 8, 14, 46, 48); therefore, it is

understood that a processor and memory are used to perform the recited functionality);

and

scheduling delivery of material to meet the material requirement from an

available inventory of material to the operation on the manufacturing line, the scheduling

being performed by a module executing on a computer system (¶¶ 7, 48;

Mukhopadhyay discloses that the breakdown of parts required and delivery schedules

are sent to the suppliers daily (¶¶ 7, 48) and the scheduling is optimized using a PC (¶¶

8, 14, 46, 48); therefore, it is understood that a processor and memory are used to

perform the recited functionality);

[Claim 2]   wherein the material requirement includes identified material and a

material need-by time (¶¶ 7, 48); and

the scheduled delivery of the material includes scheduled delivery of the

identified material prior to the material need-by time (¶¶ 7, 48);

[Claim 3]   sending a material request for the material to meet the material

requirement to a material source having the material (¶¶ 7, 48); and

wherein the material source is scheduled to deliver the material to meet the

material requirement from the available inventory of material to the operation (¶¶ 7, 48);

[Claim 4]   wherein the material request includes a plurality of materials to meet a

plurality of material requirements to be delivered by the material source, with each

material requirement of the plurality of material requirements to be delivered at a

specified material delivery time (¶¶ 7, 48);

[Claim 5]   wherein the available inventory includes at least one of a group consisting

of:

an external inventory; and

an in-house inventory (¶ 7 – External deliveries come from the inventories of

local suppliers);

[Claim 6]   wherein external inventory comprises at least one of a group consisting of

the following:

a supplier inventory; and

a hub inventory (¶ 7 – External deliveries come from the inventories of local

suppliers).

As per claims 1 and 8-10, Mukhopadhyay discloses use of the scheduling

optimization in a plant that receives parts from various suppliers to manufacture power

transformers (¶ 7); therefore, it is understood that the plant must contain at least one

manufacturing line. However, Mukhopadhyay does not expressly teach that the plant
contains a plurality of manufacturing lines, including manufacturing lines that are either
located in at least two factories or manufacturing lines that are in one factory, and
wherein at least two operations are on one manufacturing line of the plurality of
manufacturing lines. First, *Ex parte Pfeiffer*, 135 USPQ 31 (BdPatApp&Int 1961) states,
"As to the rejection of the claims on the prior art references, we do not agree with the
appellant that such structural limitations as are not disclosed by the references should
be given patentable weight. This argument is applicable to claims drawn to structure
and not claims drawn to a method. **To be entitled to such weight in method claims**,
the recited **structural limitations** therein **must affect the method** in a manipulative
sense and not to amount to the mere claiming of a use of a particular structure, which,
in our opinion, is the case here." Whether or not there are a plurality of manufacturing
lines versus one single line does not affect the structure or functionality of the claimed
invention; therefore, said limitation does not merit patentable weight. Second, even if
such limitation were deemed to merit patentable weight, the Examiner asserts that it is
old and well-known in the art of manufacturing that many manufacturing facilities
contain multiple manufacturing lines, located at the same or multiple factories, wherein
at least two operations are on one manufacturing line of the plurality of manufacturing
lines. This distribution of manufacturing functions throughout various manufacturing
lines, located either in one facility or multiple facilities, assists in more rapidly and cost-
effectively assembling large quantities of sub-portions of an item to eventually create
large quantities of the whole item. Since Mukhopadhyay is directed to making the

manufacturing process (e.g., of power transformers) more cost efficient, the Examiner

asserts that it would have been obvious to one of ordinary skill in the art at the time of

Applicant's invention to adapt Mukhopadhyay's scheduling optimization process to

address scheduling among manufacturing facilities containing multiple manufacturing

lines, located at the same or multiple factories, wherein at least two operations are on

one manufacturing line of the plurality of manufacturing lines in order to further optimize

the distribution of manufacturing functions throughout various manufacturing lines,

located either in one facility or multiple facilities, thereby assisting in more rapidly and

cost-effectively assembling large quantities of sub-portions of an item to eventually

create large quantities of the whole item.

Regarding claim 11, Mukhopadhyay discloses use of the scheduling optimization

in a plant that receives parts from various suppliers to manufacture power transformers

(¶ 7); however, Mukhopadhyay does not expressly teach that "the material requirement

is for material for manufacturing a computer system and the available inventory includes

material for manufacturing the computer system." Official Notice is taken that it is old

and well-known in the art of manufacturing to mass produce computer systems. Both

power transformers and computer systems require the assembly of multiple parts;

therefore, the Examiner asserts that it would have been obvious to one of ordinary skill

in the art at the time of Applicant's invention to adapt Mukhopadhyay's scheduling

optimization in a plant wherein "the material requirement is for material for

manufacturing a computer system and the available inventory includes material for

manufacturing the computer system" in order to reap the benefits of this scheduling

optimization methodology in a wider range of environments, thereby making such an

optimization methodology more marketable and useful to a broader base of customers.

[Claims 17-20]   Claims 17-20 recite limitations already addressed by the rejection

of claims 1-4 above; therefore, the same rejection applies.

Furthermore, Mukhopadhyay discloses that the breakdown of parts required and

delivery schedules are sent to the suppliers daily (¶¶ 7, 48) and the scheduling is

optimized using a PC (¶¶ 8, 14, 46, 48); therefore, it is understood that a processor and

memory are used to perform the functionality recited in claims 17-20.

[Claims 22-25]   Claims 22-25 recite limitations already addressed by the rejection

of claims 1-4 above; therefore, the same rejection applies.

Furthermore, Mukhopadhyay discloses that the breakdown of parts required and

delivery schedules are sent to the suppliers daily (¶¶ 7, 48) and the scheduling is

optimized using a PC (¶¶ 8, 14, 46, 48); therefore, it is understood that a computer

program product is used to perform the functionality recited in claims 22-25.

[Claims 27-30]   Claims 27-30 recite limitations already addressed by the rejection

of claims 1-4 above; therefore, the same rejection applies.

Furthermore, Mukhopadhyay discloses that the breakdown of parts required and

delivery schedules are sent to the suppliers daily (¶¶ 7, 48) and the scheduling is

optimized using a PC (¶¶ 8, 14, 46, 48); therefore, it is understood that a signal is used

to perform the functionality recited in claims 27-30.

[Claim 12]   Mukhopadhyay discloses a method for scheduling deliveries of material

comprising the step of obtaining a material requirement for an operation of at least one

operation on a manufacturing line, the material requirement comprising an identified

material and a material need-by time (¶¶ 7, 48). Mukhopadhyay also presents an

optimization scheme for insuring that various trucks make their parts deliveries at a

precise need-by time – not too early and not too late (¶¶ 9-48). Optimizing delivery

times minimizes the costs associated with the storage of parts that arrived too early, lost

time incurred by trucks waiting to use the single loading dock at the manufacturing site,

delay in manufacturing due to a late delivery of needed parts, etc. The goal of the

optimization algorithm is to schedule deliveries such that parts needed earlier arrive

before parts needed at a later time and that all parts arrive as close as possible just

prior to the point in the manufacturing cycle during which they will be utilized.

Mukhopadhyay's optimization strategy is addressed more from the point of view of the

manufacturer who has ordered parts from various suppliers; therefore, from the

manufacturer's view point, the optimization system performs the steps of identifying a

next truck scheduled for delivery to the operation, determining whether a following truck

scheduled for delivery to the operation after the next truck has a material delivery time

before the material need-by time of the material requirement, and when the following

truck has a material delivery time before the material need-by time, delaying processing

of the material requirement, and when the following truck has a material delivery time

after the material need-by time, determining whether a later opportunity to request the

identified material exists (i.e., if a delivery is not needed until later, it is requested that

the identified material not be delivered until the later time at which it is needed), and

when a later opportunity exists, delaying requesting the identified material and

scheduling a delivery of the identified material (i.e., if a delivery is not needed until later,

it is requested that the identified material not be delivered until the later time at which it

is needed).

However, Mukhopadhyay's optimization strategy does not expressly address

how suppliers schedule the dispatch of their loaded trucks from the suppliers' respective

locations. For example, the truck dispatched from a supplier with parts A and B may or

may not necessarily be the truck that actually delivers parts A and B to the

manufacturer's site; there could be a consolidation of shipments, transfer to another

mode of transportation, etc. before the time the parts leave the supplier and arrive at the

manufacturer. Even if a single truck is used throughout the delivery process of given

parts from supplier to manufacturer, that truck may schedule earlier deliveries of other

shipments to other destinations before arriving at the manufacturer. In other words, the

fact that a delivery is scheduled earlier or later at a manufacturer's location does not

necessarily mean that the truck arriving at the manufacturing site was dispatched from

the supplier after another truck that arrived earlier. Addressing the limitation of

"identifying a next truck scheduled for delivery to the operation, *the next truck originating*

at a material source," Mukhopadhyay does teach that "[l]ocal suppliers of raw materials

were developed within a radius of 30 miles of the plant" (¶ 7). With such a relatively

small area to cover from a delivery aspect, the Examiner asserts that a supplier would

likely transport the ordered raw materials on a single truck since the cost of

consolidating shipments from various trucks already in-transit (e.g., the cost associated

with meeting at a cross-docking location, physically moving and tracking the materials

from one truck to another, etc.) would most probably exceed that of dispatching a single

truck delivery within such a small radius. Therefore, the Examiner asserts that it would

have been obvious to one of ordinary skill in the art at the time of Applicant's invention

to utilize Mukhopadhyay's scheduling algorithm under the principal assumption that the

next truck scheduled for delivery to the operation is the next truck *originating at a*

material source since with such a relatively small area to cover from a delivery aspect (a

30 mile-radius within the manufacturing plant), a supplier would likely transport the

ordered raw materials on a single truck since the cost of consolidating shipments from

various trucks already in-transit (e.g., the cost associated with meeting at a cross-

docking location, physically moving and tracking the materials from one truck to

another, etc.) would most probably exceed that of dispatching a single truck delivery

within such a small radius.

Furthermore, Mukhopadhyay does not expressly teach that when a later

opportunity does not exist, the step of requesting the identified material by adding the

identified material to a material request for the next truck and scheduling a delivery of

the identified material from the material source to the operation on the next truck.

However, Mukhopadhyay does state that freight consolidation has been used with JIT

manufacturing to try to lower shipping costs (¶ 4). Freight consolidation may occur at

various stages in the delivery cycle, including at the supplier's location. Consolidating

shipments at a supplier's location allows one to more efficiently minimize the number of

trucks needed to make the maximum number of deliveries in a timely fashion. Since

freight consolidation is a common cost-reducing tactic utilized by shippers, the Examiner

asserts that it would have been obvious to one of ordinary skill in the art at the time of

Applicant's invention to modify Mukhopadhyay to perform, when a later opportunity

does not exist, the step of requesting the identified material by adding the identified

material to a material request for the next truck and scheduling a delivery of the

identified material from the material source to the operation on the next truck in order to

allow the supplier to more efficiently minimize the number of trucks needed to make the

maximum number of deliveries in a timely fashion, thereby lowering shipping costs while

effectively meeting the delivery requirements of the manufacturer.

[Claims 13-15]   Claims 13-15 recite limitations already addressed by the rejection

of claim 12 above; therefore, the same rejection applies.

Furthermore, Mukhopadhyay discloses a method for scheduling deliveries of

material comprising repeating a series of steps, the series comprising obtaining a

material requirement for an operation on a manufacturing line *from a plurality of material*

requirements, each material requirement of the plurality of material requirements

comprising an identified material and a material need-by time (¶¶ 7, 48), as per claim

13.

Regarding claims 14 and 15, Mukhopadhyay's optimization strategy is repeated

at least daily and whenever a change affecting the schedule occurs (¶¶ 7, 14, 48) in

order to constantly keep the scheduling strategy running as close to optimal conditions

as possible in light of the most current circumstances; therefore the Examiner asserts

that it would have been obvious to one of ordinary skill in the art at the time of

Applicant's invention to repeat all of the steps recited in claim 13 at a fixed time interval

(claim 14) or essentially continuously (claim 15) in order to constantly keep the

scheduling strategy running as close to optimal conditions as possible in light of the

most current circumstances, thereby reaping the greatest cost benefits of such an

optimization.

[Claim 16]   Claim 16 recites limitations already addressed by the rejection of claims

12 and 13 above; therefore, the same rejection applies.

[Claim 21]   Claim 21 recites limitations already addressed by the rejection of claims

13 and 16 above; therefore, the same rejection applies.

Furthermore, Mukhopadhyay discloses that the breakdown of parts required and

delivery schedules are sent to the suppliers daily (¶¶ 7, 48) and the scheduling is

optimized using a PC (¶¶ 8, 14, 46, 48). The use of a PC is cited as providing

extremely fast processing of the optimization algorithm (¶¶ 8, 14, 46, 48). In general,

the Examiner asserts that it is old and well-known that the use of a PC is beneficial in

performing calculations more accurately and quickly than they would be performed by

hand, especially when the calculations involve such complex algorithms and analysis as

that disclosed by Mukhopadhyay. Since Mukhopadhyay already suggests the benefits

of use of a PC, the Examiner asserts that it would have been obvious to one of ordinary

skill in the art at the time of Applicant's invention to modify Mukhopadhyay to perform all

of the recited steps using a PC (including a memory and processor) in order to perform

the recited calculations and analysis more accurately and quickly than they would be

performed by hand.

[Claim 26]   Claim 26 recites limitations already addressed by the rejection of claims

13 and 16 above; therefore, the same rejection applies.

Furthermore, Mukhopadhyay discloses that the breakdown of parts required and

delivery schedules are sent to the suppliers daily (¶¶ 7, 48) and the scheduling is

optimized using a PC (¶¶ 8, 14, 46, 48). The use of a PC is cited as providing

extremely fast processing of the optimization algorithm (¶¶ 8, 14, 46, 48). In general,

the Examiner asserts that it is old and well-known that the use of a PC is beneficial in

performing calculations more accurately and quickly than they would be performed by

hand, especially when the calculations involve such complex algorithms and analysis as

that disclosed by Mukhopadhyay. Since Mukhopadhyay already suggests the benefits

of use of a PC, the Examiner asserts that it would have been obvious to one of ordinary

skill in the art at the time of Applicant's invention to modify Mukhopadhyay to perform all

of the recited steps using a PC (including a computer program product) in order to

perform the recited calculations and analysis more accurately and quickly than they

would be performed by hand.

[Claim 31]   Claim 31 recites limitations already addressed by the rejection of

claims 13 and 16 above; therefore, the same rejection applies.

Furthermore, Mukhopadhyay discloses that the breakdown of parts required and

delivery schedules are sent to the suppliers daily (¶¶ 7, 48) and the scheduling is

optimized using a PC (¶¶ 8, 14, 46, 48). The use of a PC is cited as providing

extremely fast processing of the optimization algorithm (¶¶ 8, 14, 46, 48). In general,

the Examiner asserts that it is old and well-known that the use of a PC is beneficial in

performing calculations more accurately and quickly than they would be performed by

hand, especially when the calculations involve such complex algorithms and analysis as

that disclosed by Mukhopadhyay. Since Mukhopadhyay already suggests the benefits

of use of a PC, the Examiner asserts that it would have been obvious to one of ordinary

skill in the art at the time of Applicant's invention to modify Mukhopadhyay to perform all

of the recited steps using a PC (including a signal) in order to perform the recited

calculations and analysis more accurately and quickly than they would be performed by

hand.

6.   Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Mukhopadhyay ("Optimal Scheduling of Just-in-Time Purchase Deliveries"), as applied

to claim 5 above, in view of Jenkins et al. (US 2002/0188499).

[Claim 7]   As per claim 7, Mukhopadhyay does not expressly teach that materials

delivered from available inventory are selected from an in-transit inventory. However,

Jenkins teaches the tracking of available materials throughout a supply chain, including

in-transit inventory, in order to quickly resolve conflicts with respect to product availability when they arise (¶¶ 7-8). Since Mukhopadhyay's scheduling optimization is applied to a just-in-time (JIT) manufacturing environment (in which perfect timing of the arrival of needed materials is crucial for the reasons discussed above), the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to adapt Mukhopadhyay to schedule the delivery of materials from available inventory, including in-transit inventory, in order to facilitate the quick resolution of conflicts with respect to product availability when they arise, thereby minimizing any negative impact to the JIT manufacturing plans when such conflicts arise.

Conclusion

7.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Susanna M. Diaz whose telephone number is (571) 272-

6733. The examiner can normally be reached on Monday-Friday, 10 am - 6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for

the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Susanna Diaz
Susanna M. Diaz
Primary Examiner
Art Unit 3623

June 24, 2005